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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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PERMAN & GREEN
425 POST ROAD
FAIRFIELD, CT 06824

EXAMINER

ART UNIT	PAPER NUMBER
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DATE MAILED: 04/08/2009

Please find below and/or attached an Office communication concerning this application or proceeding.

**Notice of Non-Compliant
Amendment (37 CFR 1.121)**

Application No.

09/920,057

Examiner

Zachary A. Davis

Applicant(s)

NIEMI ET AL.

Art Unit

2437

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on 27 February 2009 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
- ☐ A. Amended paragraph(s) do not include markings.
 - ☐ B. New paragraph(s) should not be underlined.
 - ☐ C. Other _____.
- ☐ 2. Abstract:
- ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
 - ☐ B. Other _____.
- ☐ 3. Amendments to the drawings:
- ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
 - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
 - ☐ C. Other _____.
- ☒ 4. Amendments to the claims:
- ☐ A. A complete listing of all of the claims is not present.
 - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
 - ☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
 - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
 - ☒ E. Other: See Continuation Sheet.
- ☒ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):
See Continuation Sheet

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.
2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

Extensions of time are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

Failure to timely respond to this notice will result in:

Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or

Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

/Zachary A Davis/
Examiner, Art Unit 2437

Continuation of 4(e) Other: The amendments to the claims do not comply with the requirement in 37 CFR 1.121(c)(2) that the claims be submitted with markings to indicate the changes that have been made "relative to the IMMEDIATE PRIOR VERSION" of the claims (emphasis added). At least Claims 3, 18, 22, 31, and 47 include text that has been deleted or replaced (i.e. text deleted and new text added in its place) without having been marked with underlining for the added text and strikethrough or double bracketing, as appropriate, for the deleted text. Although it appears that at least some of these changes were proposed to be made in the supplemental amendment received 18 September 2008, this supplemental amendment was not entered as detailed in the final Office action mailed 05 December 2008 (see page 2 of that action). The "immediate prior version" is the last version of the claims which was entered, which therefore was the amendment received on 16 September 2008. The markings showing the changes must be made with respect to the listing of claims in the 16 September 2008 response, and not the unentered 18 September 2008 supplemental response.

Further, the amendments to at least Claim 50 do not clearly comply with the requirement of 37 CFR 1.121(c)(2) that states that the "text of any deleted subject matter must be shown by being placed within double brackets if strike-through cannot be easily perceived", noting that double brackets may also be used to show deletion of five or fewer consecutive characters. The amendments to Claim 50 do not clearly comply with this requirement, noting that it appears that "a" may have been intended to be deleted from line 5 of the claim; however, in the font used, it is difficult to clearly discern whether the character "a" has indeed been indicated by strikethrough. See also MPEP § 714(II)(C)(B).

Continuation of 5 Other: The response is also not fully responsive under 37 CFR 1.111(b), which requires that Applicant "must reply to EVERY ground of objection and rejection in the prior Office action" (emphasis added). However, the present response does not appear to reply to or acknowledge the objections to Claims 3, 18, 22, 31, 32, 47, 48, 51, and 52 under 37 CFR 1.75(c) as being in improper form, or the objection to Claim 1 for informalities (see pages 6-7 of the Office action mailed 05 December 2008).